

## Public Participation & Consensus Building

### CITIZENS JURY TO CONVENE ON MONTANA'S TAX SYSTEM

Over the last two decades, Montana's tax system has faced many changes and challenges. In 1986, Initiative 105 capped property tax rates but also led to a funding crisis for public schools. The 1989 Legislature exempted schools from I-105, allowing educational mill levies to once again rise. But the legislature also revamped taxes on natural resource production, which was suffering a sharp downturn. From 1987 to 1996 the taxable value of natural resource production in Montana declined by almost \$700 million.

As a result, much of the tax burden shifted to property taxes. From 1987 to 1996, a typical Montana residence saw a 40 percent increase in property taxes. In counties that once relied on minerals, oil, and gas, residential property taxes jumped as much as 133 percent in the same period. Statewide, overall taxable value declined by \$470 million from 1987 to 1996, while mill rates rose by 50 percent, and actual taxes levied increased by \$149 million. Montanans have been feeling the pinch.

Recognizing that Montana's tax system is too complex to be improved by a piecemeal approach, a broad range of Montanans have come together under the umbrella of the Montana Citizens

**WHAT:** Public deliberation on improving Montana's tax system

**WHEN:** Late February 2002

**WHERE:** Helena, MT

**CITIZENS JURY** (Continued on page 2)

## Regional Outreach

The Consensus Council's program on regional outreach enables us to share the lessons we have learned and to promote the appropriate use of collaboration in the American West. To those ends, we gather, analyze, and transfer information and knowledge to citizens and officials through handbooks, educational seminars, and leadership retreats. We also help organizations develop strategies to integrate collaborative problem solving into public decision making and western resource policy. Regional outreach also includes evaluating alternative approaches to shaping effective public policy and building sustainable communities.

During the past two years, we have enjoyed a working partnership with the Lincoln Institute of Land Policy, a Massachusetts-based nonprofit educational institution. As a school, the Lincoln Institute's mission is to study and teach about land policy, including land economics and land taxation. The Institute's objectives are to have an impact—to make a difference today and to help policymakers

plan for tomorrow. A major portion of the Institute's support comes from the Lincoln Foundation, established in 1947 by Cleveland industrialist John C. Lincoln.

### WESTERN STATE PLANNING LEADERSHIP RETREAT

In 1999, the Lincoln Institute of Land Policy convened the first Northeast State Planning Leadership Retreat. The intent of the retreat was to bring together high-level state officials to discuss current state planning issues. The retreat was such a success that the Lincoln Institute made a commitment to not only convene northeast state planners annually, but also to convene a similar leadership retreat in the western United States. In a similar format, the Lincoln Institute also brought together the directors of planning from the 20 largest cities in the United States during fall 2000.

**LEADERSHIP RETREAT** (Continued on page 3)

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The *Confluence* is published  
two times a year.

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## CITIZENS JURY *(continued from front page)*

Partnership (MCP) to engage the public in a dialogue on tax issues. One of the more innovative ways MCP plans to do this is by sponsoring a *Citizens Jury* early in 2002.

A Citizens Jury is a panel of 18 citizens, randomly selected, who represent a cross section of the population. The jury will meet for five days to hear information from expert witnesses on the current tax structure in Montana and how it compares to other states. Jurors will then deliberate and develop recommendations for the Montana tax system. Their recommendations will be shared with policy makers and the public to foster an informed public dialogue on the future of Montana's tax system.

The Citizens Jury on Montana's Tax System will focus on what type of taxes should finance government services in Montana, and how—if it all—the mix of taxes can be changed to improve the state's economy. Any subsequent recommendations will target only the mix of taxes and which taxes should finance the various levels of government. The jury's recommendations will not raise or lower overall taxes for Montanans.

The Citizens Jury project is coordinated by the Montana Consensus Council and the Minnesota-based Jefferson Center, a nonprofit organization that originated the citizens jury concept. Matthew McKinney, Executive Director of the Montana Consensus Council, said, "Along with the Jefferson Center, our role is to protect and preserve the integrity and legitimacy of the citizens jury process. We feel it is critical that the entire process be open, and we invite discussion and dialogue about any component of the process."

A 12-member Advisory Committee helps guide the citizens jury process. The advisory committee began meeting in October 2001 to advise project staff on the questions to be put before the citizens jury, the jury's five day agenda, and the list of witnesses who will make presentations to the jury when it convenes in early 2002.

If you have any comments or suggestions regarding the Citizens Jury on Montana's Tax System, please contact Kathy van Hook at the Montana Consensus Council, (406) 444-4457 or [kavanhook@state.mt.us](mailto:kavanhook@state.mt.us).

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With funding and logistical support from the Lincoln Institute, we convened the Western State Planning Leadership Retreat in the spring of 2001. Co-sponsors included the Council of State Governments - *WEST*, the Western Governor's Association, and the Western Planners Association. High-level state officials from the 13 states west of the 100th meridian met in Park City, Utah, to compare their experiences, learn from each others' successes and failures, and build a common base of experience that will serve them in their own states and across the region. Rather than promote a particular approach to planning and growth, we helped the group explore a range of strategies to respond to growth and land use in the West. Participants also discussed the types of information and assistance that would be useful to them.

The response was overwhelmingly positive, and a second retreat was convened in fall 2001 at the Lincoln House in Cambridge. That retreat included a roundtable discussion on the most significant issues occurring in the individual states and the region, and a forum on preventing and resolving land use disputes led by Dr. Larry Susskind of the MIT-Harvard Program on Public Disputes. Western state planners also presented case studies from Nevada and Arizona, and researchers with the Harvard School of Design demonstrated the capabilities of an "alternative futures framework" to help the public assess the consequences of different land use choices and policies. The framework has been tested in Arizona's Upper San Pedro watershed, and although expensive, holds promise for further applications in land use planning. The next Western State Planners Leadership Retreat is scheduled for October 2002. For more information visit [www.discoveringmontana.com/mcc](http://www.discoveringmontana.com/mcc) or call the Council at (406) 444-2075.

## MEDIATING LAND USE DISPUTES

**L**and use disputes tend to be among the most contentious issues facing communities throughout the United States. Local officials struggle to find ways of balancing environmental protection, economic development and private property rights.

In response, the Consensus Council is working with the Consensus Building Institute and the Lincoln Institute to offer a course on land use mediation for planners, policy makers, public officials, developers, community advocates, and mediators. The instructors present practical experience and insights into negotiating and mediating solutions to conflicts over land use and community development. Through lectures, interactive

exercises, gaming, and simulations, participants discuss and work with cases involving land development and community growth, designing and adopting land use plans, and evaluating development proposals. Questions of when and how to use mediation to resolve land use disputes are also explored.

During 2001, the course was offered in Portland, Santa Fe, Minneapolis, and Cambridge. Approximately 35 people participated in each course. Most of the participants appreciate the mix of lectures, discussions, case studies, and exercises. The highlight, however, is the problem solving clinic during the afternoon of the second day. During the clinic, participants and instructors help each other diagnosis real-life issues and challenges that people are facing, and develop practical strategies on how to respond. As one participant said, "The clinic allows us to put theory into practice, and to focus on real-life issues."

For more information, contact the Council at (406) 444-2075 or visit our web site at [www.discoveringmontana.com/mcc](http://www.discoveringmontana.com/mcc).

## U.S. CONSENSUS COUNCIL

**F**or the past year, the Montana Consensus Council has served on a advisory committee to help develop a proposal for a national consensus council. The effort is being spearheaded by Search for Common Ground, a non-profit organization based in Washington D.C., and leaders from the public and private sectors. They convened a national task force, co-chaired by former Governor Marc Racicot and former Secretary of Agriculture Dan Glickman.

Legislation was drafted to create the new consensus council, which would address public policy issues of national scope and significance. The bill calls for a nonprofit council to bring together public and private stakeholders to build agreements that can be implemented by Congress and federal agencies. The proposed council would use independent facilitators to conduct interest-based negotiations.

The council would act on referrals from Congress or the White House. It could also coordinate with the U.S. Institute for Environmental Conflict Resolution and the Federal Mediation and Conciliation Service, among other parties. The proposed legislation was introduced and referred to the House Government Reform Committee in late November 2001. No action is anticipated until Congress reconvenes after the holidays.

## COLLABORATIVE PROBLEM SOLVING: STRATEGIES FOR WESTERN LEGISLATORS

**L**awmakers in western states are increasingly compelled to work together—even across the aisle—to resolve complex problems and create new economic and political opportunities. To promote collaborative approaches in state legislatures, the Council of State Governments-WEST asked us to write a handbook on the theory and strategies of collaborative problem solving. The booklet was completed in spring 2000 and CSG-WEST distributed it to legislators in 13 western states. The booklet was also used as the basis for clinics on collaborative problem solving for legislators at a conference co-sponsored by CSG-WEST and the Pacific Northwest Economic Region in Whistler, British Columbia, in July 2001. Copies are available from CSG-WEST, 1107 9<sup>th</sup> Street, Suite 650, Sacramento, CA 95814, (916) 553-4423, [csgw@csg.org](mailto:csgw@csg.org).

## EVALUATING CONSENSUS BUILDING AND COMMUNITY-BASED COLLABORATION

**I**n a March 2001 meeting with Hewlett Foundation officials, the discussion turned to strategies for evaluating consensus-building forums, programs, and organizations. We talked about the *Participant Satisfaction Scorecard* developed by the Montana Consensus Council and the Consensus Building Institute, and the potential for using the scorecard to quickly and efficiently evaluate a number of community-based collaborative forums.

The scorecard is a list of 24 statements about the collaborative process. Statements are grouped into three categories, focusing on “The Outcome,” “Working Relationships,” and “Quality of the Process.” For each statement, participants are asked to check a box indicating whether that aspect of the process is important or unimportant to them. They then circle a number on a Likert scale from 1 (completely disagree) to 7 (completely agree) that

corresponds to their level of agreement with each statement. We can then tally the responses and determine each individual’s level of satisfaction with the collaborative process. We can also average individual scores together to see whether the group as a whole was satisfied or dissatisfied with the process.

As part of a grant from The Hewlett Foundation, we are refining and testing the participant satisfaction scorecard as a method to evaluate community-based collaboration, and to develop a set of benchmarks to determine whether the participant satisfaction scorecard is a useful, simple, and efficient evaluation tool. We also hope to demonstrate how the score card can be applied to other types of public processes.

To test the scorecard, we will use it to evaluate about 40 to 50 cases of community-based collaboration across the country to determine

participant’s satisfaction with the outcomes of collaborative processes, including social, economic, and environmental outcomes. Then we will compare the results of community-based collaboration across geographic regions and issues. We also hope to compare participant satisfaction at various times after a project has ended, examining cases that were completed less than 2 years ago, from 3 to 5 years ago, and 6 or more years ago.

Colleagues around the country have agreed to serve on an advisory committee to help refine the design of this research project, and to identify test cases in their regions or areas of expertise. A great deal of work has already been accomplished by graduate students at the MIT-Harvard Program on Public Dispute. The project, including a detailed report on our findings and recommendations, will be completed within calendar year 2002.



## IMPROVING COMMUNICATION AND PARTICIPATION IN FEDERAL LAND MANAGEMENT

A sizeable chunk of southwestern Montana's landscape falls under the jurisdiction of federal land management agencies, notably the U.S. Forest Service and U.S. Bureau of Land Management (BLM). Recently, the Montana Consensus Council has been helping BLM officials in Butte and Dillon design and coordinate public participation and collaborative problem solving within their management planning processes.

### Building Agreement on Travel Management in the Whitetail/Pipestone Area

In 1995, the Butte Field Office of the BLM and the Deerlodge National Forest began a collaborative effort to develop a travel management plan for the Whitetail/Pipestone area southeast of Butte. The agencies held joint public meetings to take comments, which were then boiled down into specific planning issues. Staff also generated management alternatives based on public input and published a joint, preliminary draft environmental impact statement. That draft laid out four alternatives, including proposals from the Montana Trail Vehicle Riders Association and the South West Montana Wildlands Alliance. BLM and the Forest Service also developed a fifth alternative.

In August 2000, the Forest Service withdrew from the process, citing budget concerns and other priorities. The BLM decided to move forward with the travel plan, as requested by the citizen members of the agency's Resource Advisory Council (RAC). The BLM also decided to bring together the various interest groups—motorized trail users, environmental and non-motorized advocates, and elected officials and government—to see if they could agree on a travel plan alternative for the Whitetail/Pipestone area. The Butte Field Office selected representatives of each interest to serve, with the RAC's approval, on a Travel Plan Sub-

group to the RAC. Eventually, the Subgroup numbered nine members, including representatives of the Montana Trail Vehicle Riders Association, two local motorized user groups, ranching interests, the South West Montana Wildlands Alliance, the Jefferson County commission, and the RAC. A BLM official agreed to provide technical and resource information to the Subgroup, and to present the agency's perspective as needed. The BLM also asked the Montana Consensus Council to coordinate and facilitate the Subgroup's efforts. The Subgroup began meeting in November 2000, drafting ground rules—committing to seeking consensus rather than a majority rule—and discussing travel management issues.

The Subgroup met about twice a month through March 2001. Participants quickly identified 12 major issues to be addressed in the travel management plan. They agreed to designate recreation opportunities by subunit within the planning area, seeking to accommodate

at least eight distinct types of motorized and non-motorized users. Other key issues included designating "big loops" by linking trails, developing user-supported enforcement, reducing conflicts among different types of users, improving signage, and locating trail heads and kiosks. The group used maps and aerial photographs to build a common understanding of the terrain, existing trails and roads, and management

boundaries. With BLM's help, they overlaid the maps with recommended trail loops, trail heads, and travel designations and restrictions for each of the four subunits.

The Subgroup recommended eliminating or restricting motorized recreation in three of the four subunits. To compensate for these restrictions, the group proposed to develop better opportunities and facilities for motorized recreation in the fourth subunit. The group ratified

#### RMP PUBLIC PARTICIPATION • COORDINATING COMMITTEE

Sue Marxer, representing farmers, ranchers, and the RAC.

Garth Haugland, representing Beaverhead County.

Ted Coffman, representing Madison County and the RAC.

Gail Abercrombie, representing oil, gas, and minerals.

Gary Ullman, representing timber.

Linda Ellison, representing off highway vehicle users.

Glenn Hockett, representing fish and wildlife.

Rebecca Wood, representing ranchers.

Robin Cunningham, representing outfitters and guides.

Elaine Spicer, representing the media.

its recommendations and submitted them to the RAC in March 2001. The RAC then reviewed the recommendations and, with unanimous approval, forwarded them to the Butte Field Office. The BLM has since incorporated the Subgroup's recommendations as the preferred alternative for the travel management plan. The agency will release its final environmental assessment by early spring 2002.

## Encouraging Public Participation in Resource Management Planning

While the Whitetail/Pipestone process was moving along, the Dillon Field Office of the BLM was tangled in a lawsuit brought by the National Wildlife Federation and Gallatin Wildlife Alliance. The suit alleged that BLM was operating under an outdated management framework (dating from 1979) that did not address key wildlife and environmental concerns. BLM settled the suit by agreeing to begin a new planning process by September 2001.

Soon thereafter, the Dillon Field Office asked the Montana Consensus Council to design a public participation process for developing the new Resource Management Plan (RMP). In turn, the Consensus Council suggested that BLM take the unprecedented step of asking the public to help define how it wanted to participate. The premise was simple—if you want a participant-driven process, the participants themselves should be asked to help design it. With a grant from the U.S. Institute for Environmental Conflict Resolution, we mailed surveys to more than 1,000 people interested in BLM resource management in southwest Montana. We then interviewed more than 70 survey respondents interested in exploring public participation strategies. Based on what we heard during the interviews, we recommended convening a broad-based work group or a series of feedback panels on specific issues.

We then invited all interested people to a meeting in Dillon on July 12, 2001, to discuss these options and further develop the public participation process. Unfortunately, only ten members of the public attended the meeting, and even these few were unenthusiastic about forming a work group. The work group option did not seem viable, and we went back to the drawing board.

After reconsidering all of the public input, we suggested forming a coordinating committee, with members representing the affected interests, to advise BLM on public participation strategies for specific steps in the

RMP process. An 11-member committee was formed, with representatives of the Western Montana Resource Advisory Council, Beaverhead and Madison counties, ranching, timber, mining, off-highway vehicles, fish and wildlife, wilderness, guides and outfitters, and the media. The committee's focus is on the public participation process, not substantive issues.

At the coordinating committee's first meeting in October 2001, Scott Powers, BLM Dillon Field Manager, reiterated his interest in creating two or three small, focused groups under the RAC to advise the RAC on specific issues while the plan alternatives are being developed, similar to the approach taken in the Whitetail/Pipestone effort. Committee members endorsed that approach. They also advised BLM on the format for a proposed three-day information fair on the RMP to be held in Dillon in early 2002. The purpose of the fair is to share and exchange information with the public, identify gaps in resource-related knowledge and understanding, seek additional information from the public, and, ultimately to validate a common understanding of the existing management situation and the data to be used in the RMP. After the information fair, interested people and organizations will have time to submit additional written information and comments.

The work of the coordinating committee is being followed with interest by public officials and organizations throughout southwestern Montana, including ranching and livestock groups, wilderness and wildlife advocates, state legislators, and the Office of the Governor.

Other public participation tools suggested during the initial interviews are now being implemented. BLM has posted information on the RMP process on its website ([www.mt.blm.gov/dfo](http://www.mt.blm.gov/dfo)), and the public can submit email comments to the RMP mailbox at [MT\\_Dillon\\_RMP@blm.gov](mailto:MT_Dillon_RMP@blm.gov). The BLM has also prepared maps and materials on Areas of Critical Environmental Concern, Wilderness Study Areas, and Wilderness to be used at open houses and other public meetings. As of this writing, the BLM also plans to set up a toll-free information telephone hotline on the RMP process. Other public participation strategies, including public comment periods and public hearings required by the National Environmental Policy Act, will be implemented as the RMP process unfolds.

For more information on the Dillon RMP process, go to the web sites listed above, or call the Dillon Field Office at (406) 683-2337.

# NATURAL RESOURCES LEADERSHIP INSTITUTE

## CO-SPONSORS

- Office of the Governor
- Montana Department of Fish, Wildlife & Parks
- Montana Department of Transportation – Environmental Services
- Legislative Environmental Quality Council
- Local Government Center – Montana State University
- Center for the Rocky Mountain West – University of Montana
- Montana Association of Planners
- Montana Association of Realtors
- Montana Environmental Information Center
- Montana Farm Bureau
- Montana Smart Growth Coalition
- Montana State Chamber of Commerce
- Montana Tourism Coalition
- Montana Association of Counties
- Montana League of Cities & Towns
- U.S. Bureau of Land Management
- U.S. Environmental Protection Agency
- U.S. Forest Service

**M**ention natural resources in mixed company and you'll likely start an argument. Unfortunately, a similar response colors most public hearings and policy debates on land use and other natural resource issues in Montana and the West. This often leads to stalemates that leave fundamental issues unresolved and key interests unmet. Several years ago the Montana Consensus Council recognized the need for a neutral forum for public officials and citizens to talk about natural resource issues, and the Natural Resources Leadership Institute was born.

The objectives of the Institute are to:

- Foster a common understanding of key natural resource issues facing the state, including the history, law, policy, and science governing the issues.
- Examine a variety of strategies to shape natural resource policy, including citizen initiatives, litigation, legislation, market-based and public trust strategies, collaborative problem solving, and refine skills on when to use what strategy.
- Strengthen working relationships among individuals and organizations within the natural resources community.
- Develop leaders who see beyond single disciplines and sectors, and possess the necessary skills to help Montanans shape public policies that integrate concerns for our economy, environment, and quality of life.

The Institute is designed for citizens and officials who have a stake in the use and conservation of Montana's natural resources. Past participants praise the Institute as a welcome opportunity to network with people and organizations working on common issues from all sides of the table. For more information, visit our web site at [www.discoveringmontana.com/mcc](http://www.discoveringmontana.com/mcc), or call Kathy van Hook at 406-444-4457.

## PRELIMINARY SCHEDULE FOR 2002 INSTITUTE

### January 10-11

- History of Natural Resource Policy
- Strategies for Governing Resource Use:
  - ~ Prior appropriation
  - ~ Scientific management
- Economic & Demographic Trends

### February 12

- Legal Framework for Natural Resource Policy – State & Federal
- Strategies:
  - ~ Ballot/Citizen Initiatives
  - ~ Public Participation

### March 15

- Strategies:
  - ~ Litigation
  - ~ Markets

### April 18 & 19 - Helena

- Strategies:
  - ~ Collaborative Problem-solving
  - ~ Consensus Building on Natural Resource Issues

## PROGRAM ON PUBLIC DISPUTE RESOLUTION

**O**ne of the core education and training opportunities offered by the Montana Consensus Council is the Program on Public Dispute Resolution. The program consists of four integrated courses that cover the range of public decision making approaches, from public participation to mutual gains negotiation and consensus building.

The Program on Dispute Resolution is approved for **graduate credits** through the Masters of Public Administration Program and the University of Montana

and Montana State University; **Continuing Legal Education credits** through the State Bar of Montana; and **Teacher's Renewal credits** through the Montana Office of Public Instruction. The one-day courses cost \$105, and the two-day course is \$175.

According to Matthew McKinney, executive director of the Consensus Council, "the Program is one way that we are trying to integrate the philosophy and strategies of collaborative problem solving into public decision making."

For more information, visit: [www.discoveringmontana.com/mcc](http://www.discoveringmontana.com/mcc) or call the Council at (406) 444-2075.

## Schedule for 2002

### March 7

Facilitation & Mediation Skills for Multi-party Public Disputes

### April 18-19

Collaborative Problem Solving & Consensus Building

### July

Negotiation Skills for Multi-party Public Disputes

### September 17

Public Participation Strategies

## BUILDING ON SUCCESS TOWARD A SUSTAINABLE FUTURE

During the past eight years, the Montana Consensus Council has completed more than 40 consensus building projects on a wide range of issues, from federal land management and watershed management to mental health services and citizen ballot initiatives. We set out to demonstrate that consensus building works, and by most measures, we've succeeded.

But we've also learned and relearned that consensus building is not appropriate in every situation. We've listened carefully to citizens and public officials, adapting strategies to better meet their needs. The practical implication of this lesson is that our work is now broader and more effective. We are shifting from a narrow focus on consensus building

to a more panoramic vision that includes public participation, deliberative dialogue, and collaborative problem solving.

To match that shift, we're debuting a new look for our quarterly reports—the biannual newsletter *Confluence* you're holding in your hands. The name refers to the integration of ideas for shaping public policy, and a confluence of diverse viewpoints. It also reinforces the three main themes of consensus building: That it is inclusive, informed, and deliberative. We hope this format will allow us to more fully tell the stories behind the work that we do, focusing on a handful of key projects in each issue. We'll also spotlight one project in a removable insert—a stand-alone case

study that demonstrates some of our best work. In this issue, the case study is on improving public participation in federal land management planning.

We've also redesigned and improved our website, thanks to John Bedard at TRW Northwest Engagement Center. The site is much easier to navigate now, and easier for us to update, which means we can keep you current on the latest MCC projects, education and training seminars, publications, and upcoming activities. Visit us at [www.discoveringmontana.com/mcc](http://www.discoveringmontana.com/mcc). If you have ideas for information or other features to add to the site, or to this newsletter please email your suggestions to [mmckinney@state.mt.us](mailto:mmckinney@state.mt.us).

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